

(b) A party requesting a review may ask that the time for filing a request for MAC review be extended if—

(1) The request for an extension of time is in writing;

(2) It is filed with the MAC; and

(3) It explains why the request for review was not filed within the stated time period. If the MAC finds that there is good cause for missing the deadline, the time period will be extended. To determine whether good cause exists, the MAC uses the standards outlined at § 405.942(b)(2) and § 405.942(b)(3).

(c) A party does not have the right to seek MAC review of an ALJ's remand to a QIC or an ALJ's affirmation of a QIC's dismissal of a request for reconsideration.

(d) For purposes of requesting MAC review (§ 405.1100 through § 405.1140), unless specifically excepted the term, "party," includes CMS where CMS has entered into a case as a party according to § 405.1012. The term, "appellant," does not include CMS, where CMS has entered into a case as a party according to § 405.1012.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37704, June 30, 2005]

§ 405.1104 Request for MAC review when an ALJ does not issue a decision timely.

(a) *Requesting escalation.* An appellant who files a timely request for hearing before an ALJ and whose appeal continues to be pending before the ALJ at the end of the applicable ALJ adjudication period under § 405.1016 may request MAC review if—

(1) The appellant files a written request with the ALJ to escalate the appeal to the MAC after the adjudication period has expired; and

(2) The ALJ does not issue a final action or remand the case to the QIC within the later of 5 days of receiving the request for escalation or 5 days from the end of the applicable adjudication period set forth in § 405.1016.

(b) *Escalation.* (1) If the ALJ is not able to issue a final action or remand within the time period set forth in paragraph (a)(2) of this section, he or she sends notice to the appellant.

(2) The notice acknowledges receipt of the request for escalation, and con-

firms that the ALJ is not able to issue a final action or remand order within the statutory time frame.

(3) If the ALJ does not act on a request for escalation within the time period set forth in paragraph (a)(2) of this section or does not send the required notice to the appellant, the QIC decision becomes a final administrative decision for purposes of MAC review.

(c) *No escalation.* If the ALJ's adjudication period set forth in § 405.1016 expires, the case remains with the ALJ until a final action is issued or the appellant requests escalation to the MAC.

[70 FR 11472, Mar. 8, 2005, as amended at 70 FR 37704, June 30, 2005]

§ 405.1106 Where a request for review or escalation may be filed.

(a) When a request for a MAC review is filed after an ALJ has issued a decision or dismissal, the request for review must be filed with the entity specified in the notice of the ALJ's action. The appellant must also send a copy of the request for review to the other parties to the ALJ decision or dismissal. Failure to copy the other parties tolls the MAC's adjudication deadline set forth in § 405.1100 until all parties to the hearing receive notice of the request for MAC review. If the request for review is timely filed with an entity other than the entity specified in the notice of the ALJ's action, the MAC's adjudication period to conduct a review begins on the date the request for review is received by the entity specified in the notice of the ALJ's action. Upon receipt of a request for review from an entity other than the entity specified in the notice of the ALJ's action, the MAC sends written notice to the appellant of the date of receipt of the request and commencement of the adjudication time frame.

(b) If an appellant files a request to escalate an appeal to the MAC level because the ALJ has not completed his or her action on the request for hearing within the adjudication deadline under § 405.1016, the request for escalation must be filed with both the ALJ and the MAC. The appellant must also send a copy of the request for escalation to the other parties. Failure to copy the other parties tolls the MAC's adjudication deadline set forth in § 405.1100 until